

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**UNITED STATES OF AMERICA,**

**v.**

**JEFFREY ELKINS,**

**Defendant.**

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**1:16-CR-0240-ELR-JFK**

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**O R D E R**

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This matter is before the Court for consideration of Magistrate Judge Janet F. King's Report and Recommendation ("R&R") [Doc. 37] that Defendant's Motion to Suppress Evidence [Doc. 19] be denied. In the time period allotted for the parties to object to the R&R, Defendant, by and through counsel, filed objections [Doc 41]. For the following reasons, the Court **ADOPTS** the R&R and **OVERRULES** Defendant's objections.

**I. Standard of Review**

The district court reviewing an R&R "shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). If neither party objects, the district judge need only review the R&R for clear error and "may accept, reject, or

modify, in whole or in part, the findings or recommendations made by the magistrate judge.” Id. A party objecting to an R&R “must specifically identify those findings objected to. Frivolous, conclusive, or general objections need not be considered by the district court.” United States v. Schultz, 565 F.3d 1353, 1361 (11<sup>th</sup> Cir. 2009) (quoting Marsden v. Moore, 847 F.2d 1536, 1548 (11<sup>th</sup> Cir. 1988)) (internal quotation marks omitted.). If there are no specific objections made to factual findings made by the magistrate judge, there is no requirement that those findings be reviewed de novo. Garvey v. Vaughn, 993 F.2d 776, 779 n. 9 (11<sup>th</sup> Cir. 1993). Absent objection, the district court judge “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge],” 28 U.S.C. § 636(b)(1)(C), and may accept the recommendation if it is not clearly erroneous or contrary to the law. Fed. R. Crim. P. 59. In accordance with 28 U.S.C. § 636(b)(1)(C), and Rule 59 of the Federal Rules of Criminal Procedure, the Court has conducted a *de novo* review of those portions of the R&R to which Defendant objects and has reviewed the remainder of the R&R for plain error. See United States v. Slay, 714 F.2d 1093, 1095 (11<sup>th</sup> Cir. 1983).

## **II. Discussion**

Defendant’s objections to the R&R are based on his contentions that: (1) he maintained a legitimate expectation of privacy which provided him with standing to challenge the search of his vehicle (2) the search warrant lacked sufficient probable

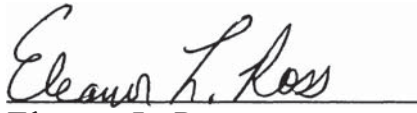
cause that evidence of a specific crime would be found inside the vehicle; and that (3) the police officers acted in good faith in relying on the search warrant.

### **III. Conclusion**

After conducting a *de novo* review of those portions of the R&R to which Defendant objects and reviewing the remainder of the R&R for plain error, this Court finds that the Magistrate Judge's factual and legal conclusions are correct. Accordingly the Court **OVERRULES** Defendant's Objections and **ADOPTS** the R&R as the Opinion and Order of this Court and **DENIES** Defendant's Motion to Suppress Evidence [Doc 19].

Defendant is **directed to announce** within twenty-one (21) days of this Order, whether he intends to enter a plea or wishes to proceed to trial in this case.

**SO ORDERED**, this 6<sup>th</sup> day of June, 2017.

  
Eleanor L. Ross  
United States District Judge  
Northern District of Georgia